House of Representatives

General Assembly

File No. 342

February Session, 2008

Substitute House Bill No. 5641

House of Representatives, April 1, 2008

The Committee on Planning and Development reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CONSERVATION DEVELOPMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2008*) As used in sections 2 to 4, inclusive, of this act:

(1) "Conservation development" means a residential development that concentrates buildings and structures in specific areas of a lot, site or parcel so that the remaining land can used for recreation, open space or preservation of features or structures with environmental, historical, cultural or other significance;

(2) "Conservation development zone" means a zone adopted by a zoning commission pursuant to sections 2 to 4, inclusive, of this act;

(3) "Open space" means land or a permanent interest in land that is used for or satisfies one or more of the criteria listed in subsection (b) of section 7-131d of the general statutes; and

(4) "Zoning commission" means a municipal agency designated or authorized to exercise zoning powers under chapter 124 of the general statutes or a special act, and includes an agency that exercises both planning and zoning authority.

Sec. 2. (NEW) (*Effective October 1, 2008*) (a) Notwithstanding the provisions of any charter or special act, a zoning commission may adopt, as part of the zoning regulations adopted under section 8-2 of the general statutes or any special act, regulations establishing a conservation development zone in accordance with the provisions of this section and sections 3 and 4 of this act.

(b) A conservation development zone shall be an overlay zone and shall satisfy the following requirements:

(1) A conservation development for which an application has been filed pursuant to the provisions of subsection (g) of section 8-3 of the 2008 supplement to the general statutes shall be an as of right permitted use in such zone and shall not be subject to any special permit, special exception, special exemption or other similar discretionary procedures, requirements or standards under the provisions of chapter 124 of the general statutes;

(2) The number of housing units per acre in the conservation development zone shall constitute an increase over the housing density of the underlying zone of (A) at least ten per cent if the amount of land set aside as open space is more than twenty per cent of the development area; (B) at least fifteen per cent if the amount of land set aside is more than twenty-five per cent of the development area; (C) at least twenty per cent if the amount of land set aside as open space is more than thirty per cent or (D) at least thirty per cent if the amount of land set aside as open space is more than forty per cent. The density provided for in this subdivision shall be increased by two per cent if the open space to be set aside is adjacent to other open space or to a public highway;

(3) Notwithstanding any minimum lot or building requirements in

the municipality, the size of lots shall be based on soil characteristics, except as otherwise provided for in this subdivision. If a lot is served by a public water or sewer system or served by an alternative on-site sewage treatment system, the regulations may authorize the commission to waive the requirements of the zoning regulations, including, but not limited to, requirements for lot size setbacks, lot coverage, building height and road frontage. If a lot is not served by a public water or sewer system or served by an alternative on-site sewage treatment system, such regulations shall contain provisions for lot size, setbacks, lot coverage, building height and road frontage that are necessary to protect the health and safety of the municipality;

(4) Open space in a conservation development shall restore, preserve or enhance wildlife habitation or use of the property;

(5) The amount of open space the commission may require in a conservation development shall be at least twenty per cent, but not more than fifty per cent, of the land that can be improved excluding: (A) Land already committed to a public use or purpose, whether publicly or privately owned; (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement; (C) land otherwise subject to an enforceable restriction on or prohibition of development; (D) wetlands or watercourses as defined in chapter 440 of the general statutes; and (E) land with vertical slopes in excess of forty degrees; and

(6) The developer shall enter into an agreement with a municipality or a nonprofit land holding conservation organization for the maintenance of the open space. The agreement may require contributions by the developer for maintenance and shall be binding on all successors and assigns.

Sec. 3. (NEW) (*Effective July 1, 2008*) (a) A zoning commission, at the time of and as part of its adoption of regulations for a conservation development zone, may adopt design standards for a conservation development within such zone.

(b) Such design standards may (1) ensure that construction within the conservation development zone is complementary to adjacent and neighboring buildings and structures and (2) address the scale and proportions of buildings; site coverage; alignment, width and grade of streets and sidewalks; type and location of infrastructure; location of building and garage entrances; off-street parking; protection of significant natural site features; location and design of open spaces; signage; and setbacks and buffering from adjacent properties.

Sec. 4. (NEW) (*Effective July 1, 2008*) (a) A zoning commission shall prescribe, consistent with the provisions of this section and sections 1 and 2 of this act, the form of an application for approval of a conservation development. Receipt and processing of applications shall follow the time periods and procedures of chapter 124 or 126 of the general statutes, as applicable. A zoning commission, or its agent, is authorized, to the extent allowed by the Freedom of Information Act, to conduct one or more preliminary or preapplication planning or workshop meetings with regard to a conservation development zone or development.

(b) The regulations in a conservation development zone may require the applicant for approval of a conservation development to pay the cost of reasonable consulting fees to provide peer review of the technical aspects of the application for the benefit of the commission. Such fees shall be held in a separate account and used only for expenses associated with the technical review of the application by consultants who are not otherwise salaried employees of the municipality or the commission, and any surplus remaining, including any interest accrued, shall be returned to the applicant within forty-five days of the completion of such technical review.

(c) Conservation development zone regulations may provide for the referral of a site plan or subdivision application for comment to other agencies, boards or commissions of the municipality. If a site plan or subdivision application is referred to another agency, board or commission, such agency, board or commission may provide any

comments to the zoning, within the applicable time period for such commission to make a decision on the application.

(d) A conservation development shall be approved by the zoning commission subject only to conditions that are necessary to (1) ensure substantial compliance of the proposed development with the requirements of the conservation development zone regulations, design standards, if any, and, if applicable, subdivision regulations, pursuant to section 8-25 of the 2008 supplement to the general statutes, as amended by this act; or (2) ensure compliance with the provisions of any state law or regulations adopted thereunder or local ordinance concerning land use. An application may be denied only on the grounds that: (A) The development does not meet the requirements set forth in the conservation development zone regulations; (B) the applicant failed to submit information and fees required by the regulations and necessary for an adequate and timely review of the design of the development or potential development impacts; or (C) there is no grantee for an easement or conveyance of the open space.

(e) The duration and renewal of an approval of a conservation development shall be governed by subsection (i) or (j) of section 8-3 of the 2008 supplement to the general statutes, section 8-26c or section 8-26g of the general statutes, as applicable.

Sec. 5. Section 8-25 of the 2008 supplement to the general statutes is amended by adding subsection (d) as follows (*Effective July 1, 2008*):

(NEW) (d) Notwithstanding the provisions of a charter or special act, a commission shall amend the subdivision regulations adopted under subsection (a) of this section to provide for conservation development consistent with zoning regulations adopted in the municipality under sections 1 to 4, inclusive, of this act. Such subdivision regulations may require the applicant for approval of a conservation development to pay the cost of reasonable consulting fees to provide peer review of the technical aspects of the application for the benefit of the commission.

Sec. 6. Section 8-26 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) All plans for subdivisions and resubdivisions, including subdivisions and resubdivisions in existence but which were not submitted to the commission for required approval, whether or not shown on an existing map or plan or whether or not conveyances have been made of any of the property included in such subdivisions or resubdivisions, shall be submitted to the commission with an application in the form to be prescribed by it. The commission shall have the authority to determine whether the existing division of any land constitutes a subdivision or resubdivision under the provisions of this chapter, provided nothing in this section shall be deemed to authorize the commission to approve any such subdivision or resubdivision which conflicts with applicable zoning regulations. Such regulations may contain provisions whereby the commission may waive certain requirements under the regulations by a three-quarters vote of all the members of the commission in cases where conditions exist which affect the subject land and are not generally applicable to other land in the area, provided that the regulations shall specify the conditions under which a waiver may be considered and shall provide that no waiver shall be granted that would have a significant adverse effect on adjacent property or on public health and safety. The commission shall state upon its records the reasons for which a waiver is granted in each case. The commission may establish a schedule of fees and charge such fees. The amount of the fees shall be sufficient to cover the costs of processing subdivision applications, including, but not limited to, the cost of registered or certified mailings and the publication of notices, and the costs of inspecting subdivision improvements. Any schedule of fees established under this section shall be superseded by fees established by ordinance under section 8-1c. The commission may hold a public hearing regarding any subdivision proposal if, in its judgment, the specific circumstances require such action. No plan of resubdivision shall be acted upon by the commission without a public hearing. Such public hearing shall be

held in accordance with the provisions of section 8-7d of the 2008 supplement to the general statutes. The commission shall approve, modify and approve, or disapprove any subdivision or resubdivision application or maps and plans submitted therewith, including existing subdivisions or resubdivisions made in violation of this section, within the period of time permitted under section 8-26d. Notice of the decision of the commission shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to any person applying to the commission under this section, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. In any case in which such notice is not published within such fifteen-day period, the person who made such application may provide for the publication of such notice within ten days thereafter. Such notice shall be a simple statement that such application was approved, modified and approved or disapproved, together with the date of such action. The failure of the commission to act thereon shall be considered as an approval, and a certificate to that effect shall be issued by the commission on demand. The grounds for its action shall be stated in the records of the commission. No planning commission shall be required to consider an application for approval of a subdivision plan while another application for subdivision of the same or substantially the same parcel is pending before the commission. For the purposes of this section, an application is not "pending before the commission" if the commission has rendered a decision with respect to such application and such decision has been appealed to the Superior Court. If an application involves land regulated as an inland wetland or watercourse under the provisions of chapter 440, the applicant shall submit an application to the agency responsible for administration of the inland wetlands regulations no later than the day the application is filed for the subdivision or resubdivision. The commission shall, within the period of time established in section 8-7d of the 2008 supplement to the general statutes, accept the filing of and shall process, pursuant to section 8-7d of the 2008 supplement to the general statutes, any subdivision or

resubdivision involving land regulated as an inland wetland or watercourse under chapter 440. The commission shall not render a decision until the inland wetlands agency has submitted a report with its final decision to such commission. In making its decision the commission shall consider the report of the inland wetlands agency and if the commission establishes terms and conditions for approval that are not consistent with the final decision of the inland wetlands agency, the commission shall state on the record the reason for such terms and conditions. In making a decision on an application, the commission shall consider information submitted by the applicant under subsection (b) of section 8-25 of the 2008 supplement to the general statutes, as amended by this act, concerning passive solar energy techniques. The provisions of this section shall apply to any municipality which exercises planning power pursuant to any special act.

(b) After the adoption of subdivision regulations under subsection (d) of section 8-25 of the 2008 supplement to the general statutes, as amended by this act, a conservation development for which an application has been filed pursuant to this section , shall be an as of right permitted use and shall not be subject to any discretionary procedures, requirements or standards under the provisions of this chapter. The commission shall approve a conservation development subject only to conditions that are necessary to ensure (1) substantial compliance of the proposed development with the requirements of such regulations; or (2) compliance with the provisions of any state law or regulations adopted thereunder or any local ordinance in the municipality concerning land use. An application may be denied only on the grounds that: (A) The development does not meet the requirements set forth in the conservation development regulations; (B) the applicant failed to submit information and fees required by the regulations and necessary for an adequate and timely review of the design of the development or potential development impacts; or (C) there is no grantee for an easement or conveyance of the open space.

Sec. 7. Section 16a-32 of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) Each revision of the plan of conservation and development shall be initiated by the secretary and shall be undertaken in accordance with the process outlined in this chapter.

(b) Without initiating a revision of the plan and after receiving written approval from the committee, the secretary may undertake interim changes in the plan upon the secretary's own initiative or upon application by (1) the chief executive officer of a municipality, with the approval of the legislative body of such municipality, or (2) any owner of real property or any interest therein on which a change is proposed. No application for an interim change from a municipality under subdivision (1) of this subsection may be submitted unless (A) the municipality in which the change is proposed has a plan of conservation and development that has been updated in accordance with section 8-23 of the 2008 supplement to the general statutes, and (B) the application includes evidence, in writing, of the opinion of the planning commission of the municipality regarding the interim change. The secretary shall adopt regulations in accordance with chapter 54 to establish procedures for applications for such interim changes by any person, political subdivision of the state or state agency. Such regulations shall include, but need not be limited to, provisions for interviews and consultations with local planning and zoning commissions or, in those municipalities which have adopted the provisions of chapter 124 but which do not have a zoning commission, the persons designated to exercise zoning powers pursuant to section 8-1, review of local plans of development and public hearings. The secretary shall notify the chief executive officer and the persons exercising planning or zoning powers in any municipality which is the subject of an application for change in the locational guide map and shall notify any members of the General Assembly representing any area which is the subject of such an application. A joint public hearing by the secretary and the committee shall be held in any such municipality if requested by any chief executive officer or planning or zoning official notified by the secretary

pursuant to this subsection. The committee shall also hold a hearing in addition to any hearing required to be held in any municipality concerning the locational guide map on any other proposed changes. After such public hearing, the committee shall approve or disapprove the application and notify the secretary of its decision not more than ten days thereafter. In the case of an application to change the development priority classification of an area on the locational guide map from rural lands to rural community centers and if the area described in the application includes a conservation development, as defined in section 1 of this act, there shall be a rebuttable presumption that such change is in the best interest of the state. The secretary shall make interim changes in the plan to reflect the approved changes.

(c) The secretary shall report annually on or before February fifteenth to the committee progress on the implementation of the plan and the extent to which state actions are in conformity with the plan.

(d) Nothing in this section shall be construed to prohibit the committee from initiating a revision of the plan at any time.

Sec. 8. Section 8-18 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

As used in this chapter: "Commission" means a planning commission; "municipality" includes a city, town or borough or a district establishing a planning commission under section 7-326; "subdivision" means the division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of subdivision regulations by the commission, for the purpose, whether immediate or future, of sale or building development expressly excluding development for municipal, conservation or agricultural purposes, and includes resubdivision; "resubdivision" means a change in a map of an approved or recorded subdivision or resubdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved thereon for public use or (c) diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of

such map; "cluster development" means a building pattern concentrating units on a particular portion of a parcel so that at least **[**one-third**]** twenty to fifty per cent of the parcel remains as open space to be used exclusively for recreational, conservation and agricultural purposes **[**except that nothing herein shall prevent any municipality from requiring more than one-third open space in any particular cluster development**]** and includes a conservation development approved under sections 1 to 4, inclusive, of this act and sections 8-25 and 8-26 of the 2008 supplement to the general statutes, as amended by this act; "town" and "selectmen" include district and officers of such district, respectively.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2008*	New section
Sec. 2	*October 1, 2008*	New section
Sec. 3	*July 1, 2008*	New section
Sec. 4	*July 1, 2008*	New section
Sec. 5	*July 1, 2008*	8-25
Sec. 6	*July 1, 2008*	8-26
Sec. 7	*July 1, 2008*	16a-32
Sec. 8	*October 1, 2008*	8-18

Statement of Legislative Commissioners:
In subsection (a) of section 1, the last sentence was deleted for clarity since it restated the provisions of the subsection.

PD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill permits municipalities to approve conservation development zones (CDZs), whereby developers may build dwellings more densely if the developer agrees to maintain a certain portion of the land as open space, and has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis
sHB 5641

AN ACT CONCERNING CONSERVATION DEVELOPMENT.

SUMMARY:

This bill allows municipalities to approve conservation development zones (CDZs) where developers may build more dwellings per acre than the zoning regulations normally allow (i.e., density limits). It allows them to approve these zones only if the developer agrees to (1) concentrate dwellings in certain parts of the zone and (2) preserve and maintain at least 20% of the developable land as open space.

The bill specifies the requirements for adopting zoning and subdivision regulations and approving proposed CDZs. They include criteria for determining eligible open space land and a schedule for determining the extent to which developers can exceed the density limits. These requirements must be incorporated in the zoning regulations and reflected in the subdivision regulations. The law authorizes zoning and planning commissions to offer other incentives for cluster development but not a method for doing so.

The bill designates CDZs as a cluster development, thus qualifying them for the incentives a municipality offers for these developments. Under current law, cluster developments must preserve at least 33% of the land as open space. Under the bill, they must reserve between 20% and 50% of the land in that condition.

Lastly, the bill makes it easier to secure state infrastructure funds for CDZs in state-designated conservation areas. It does so by creating a rebuttable presumption that a proposed change to a conservation designation is in the state's best interest. The state designates land for different desired uses in its five-year State Plan of Conservation and

Development. State agencies must consider the plan when deciding whether to fund roads, sewers, office buildings, and other large-scale infrastructure projects.

EFFECTIVE DATE: July 1, 2008, except for the provisions governing CDZ regulations designations and the open space requirement in cluster developments, which take effect October 1, 2008.

ZONING

Housing Density in Exchange for Open Space

The bill allows municipalities to adopt zoning regulations for designating areas where developers can build more housing units per acre (i.e., density) than the regulations normally allow. The regulations may allow developers to do this if they agree to preserve a part of the zone as open space or for other specified purposes (i.e., CDZ).

§§ 1 & 2 — Overlay Zone

A zoning commission that chooses to designate CDZs may do so only as an overlay zone. The bill does not define this term, but in practice, an overlay zone rests on top of a preexisting zone shown on the municipality's zoning map. It comes into play only when a developer proposes a project in a preexisting zone that meets the overlay zone's requirements, which are usually designed to protect the unique physical characteristics of the land and structures in the underlying zone.

§ 2 (b) (3)-(6) — Providing Open Space

Under the bill, a proposed CDZ project must concentrate buildings and structures in specific areas of the proposed site in such a way that the remaining land can be used for recreation or open space purposes or to preserve features or structures that are significant for environmental, cultural, historical, or other reasons.

A developer proposing a CDZ project may exceed the underlying

zone's density limits if he or she agrees to preserve a specified portion of the land as open space. That portion must be based on a subset of the total amount of land in the proposed CDZ. The developer must determine that subset by excluding all of the land that must remain in its current condition because it cannot be developed. This would include land with steep slopes and other features that cannot be developed.

Presumably, the remaining land can be developed. But the developer must exclude certain types of land in this category to determine the subset of land available for preservation. This land may be:

1. public or privately owned land being used for public purposes;
2. existing parks, recreation areas, and open space dedicated to the public or subject to a conservation easement;
3. land already subject to deeds restricting or prohibiting its development;
4. statutorily protected wetlands and watercourses; and
5. vertical slopes exceeding 40 degrees.

The land the developer proposes to preserve as open space must meet the same criteria the Department of Environmental Protection uses to award grants to towns for acquiring open spaces. Consequently, the development may preserve:

1. land that is valuable for recreation, forestry, fishing, or conserving wildlife or natural resources;
2. shorelines, rivers, tributaries, watersheds, aquifers, mountainous areas, ridgelines, wetlands, or important geographical features or protect land with these features;
3. habitat for threatened or endangered native plants or animal species or those of special concern;

4. relatively undisturbed outstanding examples of uncommon native ecological communities; and

5. local agricultural heritage sites.

§ 2 (b) (2) — Density Limits

This remaining land serves as the basis for determining the amount of land the developer has to build at a higher density. As Table 1 shows, the extent to which he can exceed those limits depends on how much land he proposes to preserve.

Table 1: Density and Open Space Exchange

If the percent of land preserved as open space is:	*The permitted density can be increased by:*	*If the dedicated open space is next to existing open space or a public highway, the density can be increased by:*
20%	10%	10.2%
25%	15%	17.34%
30%	20%	22.44%
40%	30%	32.64%

The developer must not only preserve a portion of the land as open space but arrange for its maintenance as well. He or she may do this by entering into an agreement with the municipality or a nonprofit land holding agency for this purpose. The agreement may require the developer to contribute toward the land's maintenance, but it must bind his or her successors and assigns to the arrangement specified in the agreement.

§§ 2 & 3 — Other Zoning Requirements

The CDZ's regulations may override or waive other requirements of the underlying zone besides its density limits. They may set different minimum lot size and building requirements based solely on soil characteristics.

They may also deviate from the existing building height, setback, road frontage, and lot coverage requirements, which generally dictate a structure's size and where it must sit on the lot. The regulations may waive these requirements if the development will be served by a public water or sewer system or an alternative onsite sewage treatment system. If not, they may set different requirements based only on the need to protect public health and safety.

Besides deviating from the underlying zone's requirements, the CDZ regulations may impose standards ensuring that the new buildings complement adjacent and neighboring buildings and structures. These standards may regulate the spatial relationship between buildings, infrastructure, open spaces, and other natural features.

§ 4 — CDZ Applications

Zoning commissions establishing CDZs must develop an application form for approving proposed CDZs. They must process these applications under the same statutory schedules and procedures for processing other land use applications. Commissions may also conduct preliminary or preapplication planning meetings and workshops regarding the zones, to the extent allowed under the Freedom of Information Act.

They may also hire consultants to review a CDZ application and charge the applicant for the cost. A commission that does so must deposit the fees in a separate account used only to reimburse private, outside consultants rather than staff. It must return any unused funds, including accrued interest, to the applicant within 45 days after the consultants complete their work.

The commission can refer the application to other municipal agencies, boards, or commissions for comment. The law sets deadlines by which commissions must comment on these referrals. The bill requires them to meet these deadlines when commenting on referred CDZ applications.

The commission must review the application the same way it reviews site plan applications. Applicants usually submit this type of application when proposing a use that is already permitted under the regulations and conforms to all of their requirements. In these cases, the commission must review the plan to verify that it conforms to the regulations. If it does, they must approve it without conditions.

The bill allows the commission to approve a CDZ application with only those conditions necessary to ensure that it substantially complies with the CDZ's regulations; design standards; and, if applicable, subdivision regulations. It may also impose conditions necessary to ensure that it complies with local ordinances or any state law or implementing regulation.

The commission may deny the application only if:

1. the project does not meet the CDZ's regulatory requirements,

2. the applicant failed to submit the required information and fees needed to review the project's design and potential effects, and

3. there is no guarantee that the easement or conveyance for the open space will be secured.

If the commission approves the application, the applicant must meet the statutory deadlines for completing site plans and subdivision projects.

SUBDIVISION

§ 5 — Applications

Planning or combined planning and zoning commissions must make their subdivision regulations consistent with CDZ zoning regulations. In doing so, the commission may adopt regulations under which they can refer CDZ subdivision applications to other municipal agencies, boards, or commissions for comment under the same conditions that zoning commissions may refer CDZ site plan applications to these entities.

Like zoning commissions, planning commissions may hire consultants to review CDZ subdivision applications and require the applicant to pay the cost. But the bill does not impose similar requirements for depositing the fees and repaying unused funds.

§ 6 — As-of-Right Use

The bill designates proposed CDZ applications for subdivision approval as-of-right uses. Consequently, it prohibits commissions from approving these applications with conditions other than those necessary to ensure compliance with the CDZ subdivision regulations, local ordinances, or any state law and implementing regulations.

The planning commission may deny a CDZ subdivision application for only the same reasons a zoning commission may deny a CDZ site plan application.

§ 8 — CLUSTER DEVELOPMENT

The law allows subdivision regulations to provide cluster development, which is similar to the bill's CDZ. Under current law, the planning and zoning commissions may allow a developer to exceed the existing density limits if 33% of the land in the proposed project will be preserved as open space. Under the bill, the developer may exceed the limits if he reserves 20% to 50% of the land as open space. The bill also makes CDZs eligible for cluster development incentives besides those it authorizes.

§ 7 — STATE PLAN OF CONSERVATION AND DEVELOPMENT INTERIM CHANGES

The bill makes it easier to change the state land use classification for an area that includes the site of a proposed CDZ. The five-year State Plan of Conservation and Development classifies land according to different specified uses. State agencies use the plan to decide whether to fund large-scale infrastructure projects. They do so because the plan rests on the assumption that these projects ultimately influence where private developers build homes, stores, and other uses. Consequently, the plan uses infrastructure spending as a way to steer development

away from undeveloped areas.

The plan consists of policies and principles and a map dividing the state into different land use classes based on the degree to which an area is developed. The classes range from highly developed "regional centers" to largely undeveloped "rural lands." The state agencies consult the map when deciding whether to fund an infrastructure project in a given area. Because the plan emphasizes infrastructure investments in developed areas, agencies are more likely to fund new roads, sewers, and public facilities in areas classified for development than in those designated for conservation.

Consequently, a municipality or developer seeking infrastructure funds for a CDZ in an area designated as "rural lands" may not receive them unless the state reclassifies the area. The law specifies a process for changing the area's classification. The bill establishes rebuttable presumption that a proposed interim change is in the state's best interest if it (1) would reclassify an area designated as "rural lands" as a "rural community center" and (2) includes the site of a CDZ. The change would allow the state to fund infrastructure in largely rural areas that contain pockets of developed land, such as small town centers.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute
Yea 17 Nay 3 (03/12/2008)